

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
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Attorney for BANK OF AMERICA, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:	§ CASE NO. 16-52811-CAG-13
	§
JAMES MICHAEL ESCHRICH AND	§
JENNIFER DENISE ESCHRICH,	§
DEBTOR	§ CHAPTER 13
	§
BANK OF AMERICA, N.A.,	§
MOVANT	§ HEARING DATE: _____
	§
V.	§ TIME: _____
	§
JAMES MICHAEL ESCHRICH AND	§
JENNIFER DENISE ESCHRICH;	§
MARY K. VIEGELAHN, TRUSTEE	§
RESPONDENTS	§ JUDGE CRAIG A. GARGOTTA

**MOTION FOR RELIEF FROM AUTOMATIC STAY
AS TO 14014 BELLA DONNA, SAN ANTONIO, TX 78253**

AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO § 362(e)

NOTICE

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within fourteen (14) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

WAIVER OF THIRTY DAY REQUIREMENT

Movant desires to waive the requirement of a Hearing within thirty (30) days under §362(e) and requests a Hearing at the next available date.

BANK OF AMERICA, N.A. ("Movant") hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor(s) having an address of 14014 BELLA DONNA, SAN ANTONIO, TX 78253 (the "Property"). The facts and circumstances supporting this Motion are set forth in the Affidavit in Support of Motion for Relief from Automatic Stay filed contemporaneously herewith (the "Affidavit"). In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor(s) on December 05, 2016.

2. The Debtor(s) have executed and delivered or are otherwise obligated with respect to that certain promissory note in the original principal amount of \$219,781.00 (the "Note"). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note.

3. Pursuant to that certain Deed of Trust (the "Deed of Trust"), all obligations (collectively, the "Obligations") of the Debtor(s) under and with respect to the Note and Deed of Trust are secured by the Property. A copy of the Deed of Trust is attached hereto as Exhibit B.

4. The legal description of the Property is:

LOT 12, BLOCK 27, COUNTY BLOCK 4349, BELLA VISTA UNIT 2 SECTION 2, SITUATED IN BEXAR COUNTY, TEXAS, ACCORDING TO PLAT THEREOF RECORDED IN VOLUME 9573, PAGES 84-85, DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.

5. As of July 03, 2017, the amount of the outstanding Obligations is at least \$156,742.57.

6. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$ 500.00 in legal fees and \$ 181.00 in costs. Movant reserves all rights to seek an award

or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

7. The following chart sets forth the number and amount of postpetition payments due pursuant to the terms of the Note that have been missed by the Debtor(s):

Number of Missed Payments	From	To	Monthly Payment Amount	Total Missed Payments
5	03/01/2017	07/01/2017	\$1,056.59	\$5,282.95
Less postpetition partial payments:				(\$76.34)
				Total: <u>\$5,206.61</u>

8. The estimated market value of the Property is \$208,810.00. The basis for such valuation is County Appraisal District.

9. Attached as Exhibit C to the Affidavit is a postpetition payment history with respect to the Obligations.

10. Cause exists for relief from the automatic stay for the following reasons:

Movant's interest in the Property is not adequately protected.

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. That the 14-day stay described by Bankruptcy Rule 4001(a)(3) be waived.

4. Movant further requests that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

5. For such other relief as the Court deems proper.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP

BY: /s/ PAUL KIM 07/19/2017
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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2017, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BY: /s/ PAUL KIM 07/19/2017
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